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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,983	03/19/2007	Nareak Douk	PA1759	3746

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MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

EXAMINER

YARNALL, MEGAN LEIGH

ART UNIT	PAPER NUMBER
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3738

NOTIFICATION DATE	DELIVERY MODE
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04/18/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rs.vasciplegal@medtronic.com

Office Action Summary	Application No. 10/560,983	Applicant(s) DOUK ET AL.	
	Examiner MEGAN YARNALL	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>121505</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7, and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Houser et al. 2002/0035361 (submitted in IDS). Houser discloses a girdle for surrounding a plurality of chordae tendinae comprising filamentous body 306 comprising a shape memory material (par.111) to allow transition between a linear delivery configuration (21A) and an annular treatment configuration (fig.21B).

3. Re claims 2 and 3, see par. 111 and fig. 22B.

4. Re claim 4, Houser discloses a system for treating a heart valve comprising elongate delivery catheter 302 having a lumen, and girdle 306 having an annular treatment configuration 21B sized and shaped to surround a plurality of chordae tendinae CT (fig.22B) and a linear delivery configuration (fig.21A) sized and shaped to be releasably disposed within the lumen of delivery catheter 302 (figs. 22A & B; pars. 111-112).

5. Re claims 13-16, see figs. 18, 21A, 21B, 22A, 22B, and pars. 102, 11, and 112 for the method of using the device as claimed.

6. Claims 4-8, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Langberg et al. 6,402,781 (submitted in IDS). Langberg discloses a system for

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treating a heart valve comprising elongate delivery catheter 72 having a lumen 84, and girdle 40 having an annular treatment configuration (fig.6) capable of surrounding a plurality of chordae tendinae and a linear delivery configuration sized and shaped to be releasably disposed within lumen 84 of delivery catheter 72 (fig.4).

7. Re claims 5 and 6, push rod 86 in fig.4 and col.11, ll.10-37. Note that in order for push rod 86 to traverse the vasculature as described by Langberg (col.3, ll.50-62), at least the distal portion of the push rod is flexible.

8. Re claim 7, see col.11, ll.50-61.

9. Re claim 8, see fig. 6 and col.8 ll.56-63 for locking mechanism 70 which locks girdle 40 in the annular treatment configuration.

10. Re claim 10, see col.8, ll.6-10 and col.11, ll.45-48 for tether 56 which is releasably attached to girdle 40.

11. Re claim 11, see col.8, ll.30-44.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langberg et al. 6,402,781 in view of Khosravi et al. 5618299. Langberg discloses the invention substantially as claimed and discussed above including a locking mechanism for locking the device in an annular configuration. However, Langberg does not disclose

that the locking mechanism comprises a first hook disposed adjacent the first end, and a second hook disposed adjacent the second end and adapted for engagement with the first hook, or a lock portion disposed at the first end, the lock portion having a lumen for receiving the second end, and at least one tooth disposed adjacent the second end and adapted for engagement with the lock portion.

14. Khosravi teaches a shape memory stent, in the analogous art of stents, wherein a lock portion at the first end of the stent has a lumen 210 for receiving a second end which has teeth 165 (fig.16) for the purpose of locking the annular device in the desired configuration (col.5, ll.44-62). Alternatively, teeth 165 may be considered hooks that are disposed adjacent the first and second end of the device and engage each other to lock the device in the desired configuration (fig.16).

15. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the locking mechanism disclosed by Langberg, to include the hook/teeth and lumen locking mechanism taught by Langberg to maintain the device in a desired configuration.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MEGAN YARNALL whose telephone number is (571)270-3071. The examiner can normally be reached on Monday-Friday 7:00-4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Y./

Examiner, Art Unit 3738

4/10/08

/Bruce E Snow/

Primary Examiner, Art Unit 3738